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In Propria Persona

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

TODD R. G. HILL, et al,

Plaintiffs

vs.

THE BOARD OF DIRECTORS, OFFICERS AND AGENTS AND INDIVIDUALS OF THE PEOPLES COLLEGE OF LAW, et al.,

Defendants.

CIVIL ACTION NO. 2:23-cv-01298-JLS-BFM

The Hon. Josephine L. Staton
Courtroom 8A, 8th Floor

Magistrate Judge Brianna Fuller Mircheff
Courtroom 780, 7th Floor

PLAINTIFF'S REPLY IN SUPPORT OF MOTION TO COMPEL DISCOVERY [DKT. 231] AND RESPONSE TO DEFENDANTS' OPPOSITION [DKT. 244]

NO ORAL ARGUMENT REQUESTED

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PLAINTIFF'S REPLY IN SUPPORT OF MOTION TO COMPEL [DOCKET 231] AND REPLY OPPOSITION [DOCKET 244]

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT Plaintiff Todd R.G. Hill respectfully submits this Reply in support of his Motion to Compel Discovery and responds to the Opposition [Docket 244] filed by Haight Brown & Bonesteel LLP on behalf of certain PCL Defendants.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendants rely on a procedural fiction — that no operative complaint exists — while ignoring both the Court's silence on the pending PAC and the Rule 8-compliant TAC acknowledged in the Magistrate's own recommendation [Dkt. 213].

This argument collapses under *Foman v. Davis*, 371 U.S. 178 (1962), which affirms the liberal standard for amendment and presumes good faith where amendment enhances clarity. Defendants' attempt to retroactively nullify the record betrays either gross misunderstanding or bad faith.

Plaintiff's motion does not seek to enforce unanswered discovery — it seeks leave under Federal Rule of Civil Procedure 26(d)(1) to initiate targeted discovery supported by judicially noticed evidence and documents already in Defendants' possession.

Defendants' conflation of a motion to compel responses to previously served discovery with a motion for limited leave to initiate early discovery under Rule 26(d) reflects not just a strategic

deflection, but a fundamental misapprehension of well-established federal discovery principles. Their opposition fails to grapple with the plain text of Rule 26(d)(1) and the controlling authority authorizing targeted discovery where good cause is demonstrated — a standard that Plaintiff not only satisfies, but exceeds through judicially noticed records and procedural precision.

Semitool, Inc. v. Tokyo Electron America, Inc., 208 F.R.D. 273 (N.D. Cal. 2002) explicitly authorizes early discovery where (1) it will conserve resources, and (2) it will clarify pivotal issues before Rule 26(f) formalities. The Court in *Semitool* granted early discovery where it was targeted, specific, and would advance the litigation, particularly in clarifying issues before a formal Rule 26(f) conference or full discovery schedule. Those conditions are satisfied here.

Defendants remained silent, declining to engage with Docket 197 (FRE 201), Docket 199 (Supplement), and Docket 243 (Judicial Inaction). Their sudden appearance in opposition — without addressing any of the underlying factual or legal foundations for discovery — confirms that the motion at Docket 229 was necessary.

The Court should treat their refusal to confer or stipulate — followed by procedural obstruction — as further evidence of prejudice and predicate grounds for sanction under Rule 37(a)(5).

Even absent a ruling on the PAC, the Court has taken judicial notice of government-authored records and official correspondence. These records — unrefuted by Defendants — demonstrate factual gaps that discovery is designed to fill.

Defendants' silence on the contents of Docket 197 and Docket 199 — including internal admissions of transcript manipulation and record concealment — is telling.

If Defendants truly believed there was "nothing to discover," they would have moved to strike or clarify those records. They did not.

Notably, Defendants do not — and cannot — dispute that Plaintiff continues to suffer prejudice as long as discovery is withheld.

Their blanket assertion that "no discovery is permitted" assumes that judicial inertia immunizes them from factual accountability.

The law is clear: judicial delay does not create discovery immunity. The Court is not prohibited from managing its docket, and Defendants are not entitled to pre-discovery sanctuary.

Finally, Defendants' refusal to confer in good faith prior to opposing the motion — followed by a procedurally weak and factually void opposition — lays the foundation for Rule 37(a)(5) sanctions. Courts discourage procedural obstruction, and Defendants' conduct reveals a strategy of attrition, not defense.

II. DEFENDANTS' OPPOSITION MISSTATES THE PROCEDURAL POSTURE OF THIS CASE

Defendants' assertion that 'no complaint exists' is irreconcilable with their own procedural posture — having both opposed amendment and failed to move to strike the operative TAC. The Court need not indulge strategic inconsistency masquerading as law. Defendants are estopped from simultaneously denying the existence of pleadings they themselves asked the Court to reject.

The Defendants misleadingly assert that "there is currently no complaint on file," relying solely on the pendency of a non-binding Report and Recommendation regarding the Third Amended Complaint ("TAC"). In fact:

A. The TAC remains the operative complaint unless and until the Court orders otherwise.

B. Plaintiff's Proposed Amended Third Amended Complaint (PAC) [Dockets 163, 164] has been on file since September 6, 2024. No ruling has been issued denying leave to amend.

C. Defendants formally opposed Plaintiff's PAC, thereby acknowledging its existence as a live issue before the Court. They now seek to disown that same record by claiming "no complaint exists."

D. Docket 243, filed March 25, 2025, highlights over seven months of judicial inaction on the PAC and underscores Plaintiff's procedural prejudice.

Defendants' suggestion that no complaint exists is unsupported by the record and directly contrary to Rule 15's liberal amendment standards (*Foman v. Davis*, 371 U.S. 178 (1962)) and the principle that amendments should be allowed when justice so requires.

Defendants' contradictory posture — opposing amendment while denying the existence of a complaint — reveals this opposition as yet another example of procedural gamesmanship, not a good-faith legal argument because their position is directly contrary to Rule 15(a)(2)'s liberal amendment standard (*Foman v. Davis*, 371 U.S. 178, 182 (1962)) and undermines the efficient, fair resolution of the issues on the merits.

A. DEFENDANTS DO NOT REBUT GOOD CAUSE FOR EARLY DISCOVERY UNDER RULE 26(D)

Defendants' decision to sidestep — rather than rebut — Plaintiff's factual claims underscores their merit. Their silence on over 16,000 concealed records, transcript alterations, and internal emails from CPRA production confirms not just the relevance but the urgency of discovery.

Contrary to Defendants' claim that no good cause exists, Plaintiff has demonstrated:

i. Judicial notice has already been requested and partially recognized regarding public admissions by the State Bar, CPRA records, legislative hearings, and Spiro's own communications.

ii. The record contains systematic concealment of over 16,000 documents, including internal misconduct records and evidence relevant to Plaintiff's fraud, conspiracy, and § 1983 claims.

iii. Discovery is sought not for broad fishing, but to narrowly target records already identified through public admissions and judicial notice.

Defendants cite no case law rebutting Plaintiff's invocation of *Semitool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D. 273 (N.D. Cal. 2002), which authorizes early discovery where it will "substantially contribute to moving the case forward."

Defendants' pattern of non-compliance extends beyond mere delay; it constitutes a deliberate effort to obstruct case progression in a manner inconsistent with judicial efficiency and fairness. Courts routinely reject such strategic evasions. See *Foman v. Davis*, 371 U.S. 178, 182 (1962) ('[O]utright refusal to grant the leave without any justifying reason… [is] an abuse of discretion and inconsistent with the spirit of the federal rules.'). Given Defendants' established record of evasion

and procedural deflection, the Court should construe all ambiguities in Plaintiff's favor and recognize that Defendants' strategy is one of attrition rather than substantive legal defense.

B. TAC REMAINS OPERATIVE

Defendants falsely assert that "there is no complaint" currently operative. This is incorrect:

1. The TAC remains operative until the Court enters a ruling adopting the Report and Recommendation at Docket 213.
2. Plaintiff's PAC was filed on September 6, 2024 and has been pending for over 6 months. This procedural delay does not vitiate Plaintiff's right to discovery on judicially noticed facts. The Court's refusal to strike or reject the PAC and its continued silence strongly infers tacit acknowledgment that the discovery requests grounded in Dockets 197, 199, and 229 are procedurally sound.

C. DISCOVERY REQUESTS *WERE* MADE

Haight misleadingly claims no discovery has been propounded. However, Plaintiff's motion clearly outlines:

i. Specific document categories

ii. Targeted interrogatories and requests for admission

iii. Narrow timeframes (2018–2024)

iv. Defined actors (e.g., Spiro, Peña, Bar personnel)

Caselaw supports the early grant of discovery when it "substantially contributes to moving the case forward."

D. MISCHARACTERIZATION OF JUDICIAL NOTICE

The Opposition misrepresents both the nature and legal effect of the Court's judicial notice ruling in Docket 229. While Haight claims the Court merely acknowledged the "existence" of reports, they fail to address the substance and implications: that judicial notice of official records — particularly those authored by the State Bar and PCL Defendants — confirms relevance, authenticity, and context, which satisfies the threshold to compel targeted discovery. See *United States v. Ritchie*, 342 F.3d 903, 909 (9th Cir. 2003) (Courts may take judicial notice of public records and government reports, including facts not reasonably in dispute). Notably, in this context Judicial notice supports the *Ex parte Young* exception, which permits equitable relief and prospective discovery regardless of immunity.

III. THE OPPOSITION IGNORES DOCKETS 197, 199, AND THE UNDISPUTED NEED FOR FACTUAL CLARIFICATION

Defendants' failure to contest the authenticity or relevance of the judicially noticed records in Dockets 197 and 199 — which include internal State Bar emails, legislative reports, and transcript manipulation admissions — constitutes a de facto concession. Courts routinely treat silence as a waiver where documentary facts are noticed under FRE 201 and not disputed.

Defendants' Opposition fails to address:

A. Docket 197 (FRE 201 Motion), which includes internal State Bar records demonstrating procedural violations and concealment of regulatory failures at PCL. Exhibit C to Docket 199 contains internal email correspondence in which the State Bar acknowledged recordkeeping

deficiencies but took no action. This is not mere speculation; it is an unrefuted admission already subject to FRE 201 judicial notice.

B. Docket 199, which supplements that motion with documentary admissions by Spiro, including transcript manipulation.

C. The Court's silence on these filings facially further compounds procedural prejudice and weighs in favor of narrowly tailored early discovery to mitigate a factual vacuum.

A. HAIGHT'S OPPOSITION MISSTATES THE LAW, THE RECORD, AND THE COURT'S RULINGS

Haight's Opposition is notable for what it does not contest: the judicially noticed evidence of regulatory failures, the public disclosures of over 16,000 concealed records, and the Defendants' own admissions regarding recordkeeping issues, transcript tampering and accreditation collapse. Rather than confront these facts, Defendants attempt to sidestep discovery obligations through rhetorical misdirection.

B. THE COURT NEED NOT RULE ON THE PAC TO GRANT THE MOTION

Defendants' conflation of a motion under Rule 26(d)(1) with a traditional post-discovery motion to compel reflects either a profound misunderstanding or intentional misrepresentation of discovery procedure. The Court is fully authorized to permit targeted early discovery upon a showing of good cause — a standard Plaintiff satisfies via judicially noticed facts, public admissions, and unrefuted evidence.

No rule prevents a court from authorizing narrowly tailored discovery tied to judicially noticed facts and public admissions, even while an amended complaint is pending. The relief sought is fact-anchored and not dependent on finalization of pleading status. *See Gibson v. Rosario,* No. 22-cv-01878, 2023 WL 386498, at *2 (C.D. Cal. Jan. 24, 2023) — Discovery may proceed on "issues already noticed or likely to survive dismissal."

C. DISCOVERY IS WARRANTED TO ESTABLISH FACTUAL SUPPORT FOR SYSTEMIC INEQUITY

The Court in *Johnson* permitted affirmative action to correct a manifest imbalance based on a clear statistical disparity. Plaintiff seeks discovery to:

1. Obtain data regarding FYLSX passage rates by race, ethnicity, and socioeconomic background to assess the disparate impact on minority students;
2. Uncover evidence of predatory enrollment practices targeting minority students by unaccredited schools;
3. Investigate the adequacy of academic resources and support provided by these institutions; and
4. Examine records of internal communications within the State Bar to determine whether its failure to address these known disparities constitutes negligence or misconduct.

Such discovery is essential to establishing that systemic inequities—not individual failings—are responsible for the low success rates of minority students at unaccredited law schools. As in Johnson, remedial measures may be justified if this manifest imbalance is demonstrated.

D. DUE PROCESS & INSTITUTIONAL PREFERENCE

The Court has an independent duty to ensure that its rulings adhere to fundamental fairness and procedural due process. See *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) ('[D]ue process requires an opportunity to present every available defense.'). If this Court accepts Defendants' procedural gamesmanship—ignoring pending judicial notice requests and refusing to enforce case management obligations—it risks affirming a system where litigants are prejudiced by virtue of institutional affiliation, rather than legal merit. Such a precedent cannot stand.

Furthermore, Defendants' chronic procedural non-compliance is not mere oversight—it is a deliberate litigation strategy to obstruct Plaintiff's access to a fair adjudication. See *Foman v. Davis*, 371 U.S. 178, 182 (1962) ('[O]utright refusal to grant leave without any justifying reason… [is] an abuse of discretion and inconsistent with the spirit of the federal rules.').

Their pattern of obstruction should weigh against Defendants' credibility before this Court.

E. PUBLIC INTEREST IMPLICATIONS

This case involves not just individual claims but systemic patterns of exclusion and oversight failure. Public interest mandates discovery into structural disparities in legal education and bar admissions — particularly where State agencies and publicly funded institutions are implicated.

The State Bar's ongoing failure to regulate unaccredited law schools has consequences far beyond this litigation. Courts have a vested interest in ensuring that regulatory agencies uphold their obligations. See *Texas Dep't of Housing v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015) (holding that regulatory enforcement failures disproportionately impact underprivileged groups). This

case is not merely about procedural compliance—it is about the systemic accountability of a regulatory body entrusted with protecting the public interest.

Furthermore, the State Bar's failure to neutrally satisfy CPRA requests violates fundamental fairness. The refusal to provide meaningful access to public records acts to distort the relevant factual record, leaving Plaintiff at a procedural disadvantage.

IV. GOOD CAUSE EXISTS TO PERMIT DISCOVERY FOR JUDICIAL EFFICIENCY & FAIRNESS

Authorizing narrowly tailored discovery serves judicial economy, avoiding serial Rule 12(b)(6) motion cycles and ensuring fact-development occurs concurrently with procedural resolution.

Good cause for discovery exists where the requesting party identifies specific information necessary to support a claim and demonstrates that the requested information is likely to lead to admissible evidence. Plaintiff has shown that discovery is essential to uncovering:

A. The extent of minority underrepresentation in bar admissions;

B. Evidence of discriminatory or negligent oversight by the State Bar; and

C. The structural disadvantages imposed by FYLSX and unaccredited law school practices.

D. Defendant misconduct or predatory practice.

The data Plaintiff seeks is directly relevant to demonstrating the systemic exclusion of minority students a form of institutional discrimination that mirrors the manifest imbalance identified in

Johnson and for which policies in support must satisfy strict scrutiny under the prevailing precedent set in *SFFA*.

V. CONCLUSION

Defendants' opposition does not refute the core basis for this motion — it merely recycles procedural posturing already rejected by the text and spirit of Rule 15, Rule 26(d), and the Court's own docket. Their attempt to claim that "no complaint exists" — after having opposed Plaintiff's amendment and declined to seek dismissal of the TAC — reflects a pattern of strategic inconsistency designed to delay, not defend.

The facts giving rise to this motion are not speculative. They are grounded in records already subject to judicial notice, including:

A. Internal State Bar admissions of more than 16,000 concealed documents;

B. Public evidence of transcript manipulation by Defendant Spiro; and

C. The Court's own acknowledgment that the operative TAC complies with Rule 8.

Defendants offer no factual rebuttal to these points and instead hope that procedural inertia will shield them from accountability. That is not how discovery works — nor how Rule 1, Rule 26, or Rule 15 are meant to function. Discovery exists to clarify facts, not reward obfuscation.

For the foregoing reasons, Plaintiff respectfully requests that the Court:

i. Grant leave to conduct targeted discovery as outlined in the motion;

ii. Issue a scheduling order authorizing discovery on judicially noticed and CPRA-disclosed matters;

iii. Consider sanction due to the Defendants' procedurally frivolous opposition.

This case cannot proceed fairly while critical facts remain buried beneath procedural mischaracterizations. Discovery is the only remedy capable of restoring balance. Defendants hope to hide in procedural shadows. Discovery, like light, is the only force capable of revealing what they know, and fear, the record will show.

Dated: March 27, 2025

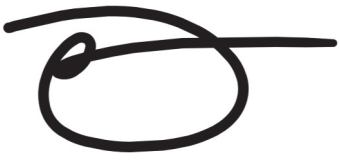
Respectfully submitted,

Todd R. G. Hill
Plaintiff, Pro Se

STATEMENT OF COMPLIANCE WITH LOCAL RULE 11-6.1

The undersigned party certifies that this brief contains 2,654 words, which complies with the 7,000-word limit of L.R. 11-6.1.

Respectfully submitted,



March 27, 2025

Todd R.G. Hill

Plaintiff, in Propria Persona

Plaintiff's Proof of Service

This section confirms that all necessary documents will be properly served pursuant to L.R. 5-3.2.1 Service. This document will be/has been electronically filed. The electronic filing of a document causes a "Notice of Electronic Filing" ("NEF") to be automatically generated by the CM/ECF System and sent by e-mail to: (1) all attorneys who have appeared in the case in this Court and (2) all pro se parties who have been granted leave to file documents electronically in the case pursuant to L.R. 5-4.1.1 or who have appeared in the case and are registered to receive service through the CM/ECF System pursuant to L.R. 5-3.2.2. Unless service is governed by Fed. R. Civ. P. 4 or L.R. 79-5.3, service with this electronic NEF will constitute service pursuant to the Federal Rules of Civil Procedure, and the NEF itself will constitute proof of service for individuals so served.

Respectfully submitted,

March 27, 2025

Todd R.G. Hill

Plaintiff, in Propria Persona

EXHIBIT A

EXHIBIT B